

## REMARKS

This Amendment is filed in response to the Office Action dated March 11, 2003. In the Office Action the Examiner:

- objected to the specification, and in particular the abstract because it exceeded the 150 word limit, and
- rejected claim 1 under 35 U.S.C. § 102(e) as anticipated by Rickard *et al.*

No new matter has been added. After entry of this Amendment, claim 1 is the only pending claim.

### Specification Objection

The abstract was objected to under MPEP § 608.01(b) as exceeding the 150 word limit. Applicant has amended the abstract to comply with MPEP § 608.01(b).

### 35 U.S.C. § 102 Rejection

Claim 1 was rejected under 35 U.S.C. § 102(e) as being anticipated by Rickard *et al.* The Examiner stated that Rickard teaches a method of trading investments relating to an underlying security comprising the steps of creating an up instrument, and creating a down instrument as indicated in steps (a) and (b), calculating an opening sale price for the instruments, and recalculating the sale price for both instruments based at least in part on movement of the price of the underlying security.

Before addressing the Examiner's comments, the claimed invention and the Rickard *et al.* disclosure will be briefly discussed.

### The Claimed Invention

Claim 1 of the present invention recites, *inter alia*, creating an Up (Down) instrument by aggregating: (i) the purchase of a round lot of call (put) options for the underlying security at a specified strike price and specified expiration date/time, and (ii) the sale of a round lot of put (call) options, for the same underlying security at the same strike price and same expiration date/time. The aggregation of these paired put and call options into a single new financial instrument is an important part of the claimed invention. This novel financial instrument permits traders and market makers to hedge their portfolios against market swings. See present application at page 8, line 25-27.

Claim 1 further recites the calculation of a sale price for the Up and Down instrument; opening the instruments up for trading, monitoring the trading of said instruments, and adjusting and recalculating the sale price of said instruments as necessary. The monitoring and automatic adjustment of the Up and Down instruments induces traders on the opposite sides of transactions to trade in equal or near equal lots of round numbers, therefore minimizing the financial exposure of the trading operators (*i.e.*, market makers, etc.). See present application at page 8, line 30 to page 9, line 2 and page 11, line 27 to page 12, line 1.

**Rickard et al.**

Every morning, before an exchange opens for trading, or when an exchange reopens for trading after a trading halt, exchanges must conduct an opening “rotation” procedure to determine the opening price for each option. See Rickard *et al.* at column 1, lines 31-35. There are many options that need to be priced before trading begins, thus this can be a very time consuming process during which time the price of the security underlying the option may change dramatically. See *Id.* at column 1, lines 35-38. In an attempt to reduce the amount of time needed to open an option series for trading and to prevent inconsistencies in pricing between related option series, Rickard *et al.* discloses an automated system for simultaneously calculating the opening sale price for all options in a series. See *Id.* at column 5, lines 22-65.

Rickard *et al.* further discloses a system of allocating order imbalances to market makers at the opening of trading, so as to minimize deviation between the market maker’s desired targeted positions and their current cumulative positions. See *Id.* at column 6, lines 55-60. At the opening of trading there are typically a disproportionate number of public buyers and sellers. See *Id.* at column 6, lines 49-53. After a market maker has signaled his initial opening price, all matching public buy and sell orders are executed. See *Id.* at column 4, lines 59-61. Any remaining public orders which can not be matched must, by exchange rules, be assigned to market makers who must buy or sell them from their own accounts. See *Id.* at column 6, lines 52-54. In known systems, the assignment of residual imbalances to market makers is made on a “round robin” approach, which often results in undesirable and inefficient allocations. See *Id.* at column 5, lines 30-34. In an attempt to better allocate residual imbalances of public orders to market makers Rickard *et al.* discloses an improved system for the allocation of non-executed trades based upon market makers’ desired and current positions. See *Id.* at column 5, lines 56-60.

### 35 U.S.C. § 102 Rejection

The Examiner first stated that Rickard *et al.* teaches a method of trading investments to an underlying security comprising the steps of creating an up instrument and down instrument. (See Office Action citing Rickard *et al.* at column 6, line 10 through column 7, line 47). The cited part of Rickard *et al.* discloses a two-stage computer-based system. The first stage determines a set of opening prices for options traded on an exchange, to maximize the volume of trades for all option series at the opening of trading. The second stage takes the residual imbalances (that is, any public orders in each option series that could not be matched off with buyers and sellers) and assigns them to market makers. Neither this part, nor any other part of Rickard *et al.* discloses, teaches or suggests the aggregation of puts and calls to create the novel Up and Down instruments recited in claim 1.

The Examiner also stated that Rickard *et al.* teaches a method of trading investments to an underlying security comprising the steps of recalculating the sale price of both instruments based at least in part on movement of the underlying security. (See Office Action citing Rickard *et al.* at column 6, line 10 through column 7, line 47). The cited part of Rickard *et al.* discloses a two-stage computer-based system that determines the opening prices for each option series so that all option series can be opened simultaneously on the option exchange at a price that optimizes trading across all series of options. Neither this part, nor any other part of Rickard *et al.* discloses, teaches or suggests the recalculation of the sales price of Up and Down instruments based on the changing price of the underlying security, as recited in claim 1.

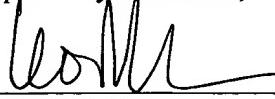
Finally, applicant observes that claim 1 also recites the monitoring of the sales of the Up and Down instruments, including: monitoring at least the imbalance in the trading volume of the Up and Down instruments; adjusting the sale price of the Up and Down instruments based at least in part on information collected in the monitoring step; and recalculating the sale price of the Up and Down instruments based at least in part on the movement of the price of the underlying security. Rickard *et al.* discloses a computer-implemented method and system that determines the opening prices for each option series so that all option series can be opened simultaneously on the option exchange. Nowhere does Rickard *et al.* disclose, teach or suggest the monitoring, adjusting, and recalculating of option prices during trading.

In light of the above amendments and remarks, the Applicant respectfully requests that the Examiner consider this application with a view towards allowance. The Examiner is

invited to call the undersigned attorney at 212-790-6201, if a telephone call could help resolve any remaining items.

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Respectfully submitted,



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